



Billing Code: 6560-50-P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[EPA-R09-OAR-2015-0472; FRL-9982-23-Region 9]**

#### **Partial Approval and Partial Disapproval of Air Quality State Implementation Plans; Arizona; Infrastructure Requirements for Nitrogen Dioxide and Sulfur Dioxide**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is partially approving and partially disapproving several state implementation plan (SIP) submissions from the State of Arizona pursuant to the requirements of section 110(a)(1) and 110(a)(2) of the Clean Air Act (CAA or “the Act”) for the implementation, maintenance, and enforcement of the 2010 nitrogen dioxide (NO<sub>2</sub>) and 2010 sulfur dioxide (SO<sub>2</sub>) national ambient air quality standards (NAAQS or “standards”). We refer to such SIP submissions as “infrastructure” SIP submissions because they are intended to address basic structural SIP requirements for new or revised standards including, but not limited to, legal authority, regulatory structure, resources, permit programs, monitoring, and modeling necessary to assure implementation, maintenance, and enforcement of the NAAQS. In addition, the EPA is reclassifying Pima County from Priority II to Priority III for SO<sub>2</sub> emergency episode planning purposes. The EPA is also approving into the Arizona SIP sections of an Arizona Revised Statute related to air quality modeling and the submission of modeling data to the EPA. Finally, the EPA is clarifying several inconsistencies between its technical support document and notice of proposed rulemaking.

**DATES:** This rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2015-0472. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, *e.g.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <http://www.regulations.gov>, or please contact the person identified in the FOR FURTHER INFORMATION CONTACT section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** John Ungvarsky, Air Planning Office (AIR-2), EPA Region IX, (415) 972-3963, [ungvarsky.john@epa.gov](mailto:ungvarsky.john@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, the terms “we,” “us,” and “our” refer to the EPA.

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### **I. Background**

Section 110(a)(1) of the CAA requires states to make a SIP submission within three years after the promulgation of a new or revised primary NAAQS. Section 110(a)(2) includes a list of specific elements that the SIP must include. Many of the section 110(a)(2) SIP elements relate to the general information and authorities that constitute the "infrastructure" of a state's air quality

management program. SIP submittals that address these requirements are referred to as “infrastructure SIP submissions” or “I-SIP submissions.” The I-SIP elements required by section 110(a)(2) are as follows:

- section 110(a)(2)(A): emission limits and other control measures;
- section 110(a)(2)(B): ambient air quality monitoring/data system;
- section 110(a)(2)(C): program for enforcement of control measures and regulation of new and modified stationary sources (excluding the requirements applicable only in nonattainment areas);
- section 110(a)(2)(D)(i): interstate pollution transport;
- section 110(a)(2)(D)(ii): interstate and international pollution abatement;
- section 110(a)(2)(E): adequate resources and authority, conflict of interest, and oversight of local and regional government agencies;
- section 110(a)(2)(F): stationary source monitoring and reporting;
- section 110(a)(2)(G): emergency episodes;
- section 110(a)(2)(H): SIP revisions;
- section 110(a)(2)(J): consultation with government officials, public notification, prevention of significant deterioration (PSD), and visibility protection;
- section 110(a)(2)(K): air quality modeling and submittal of modeling data;
- section 110(a)(2)(L): permitting fees; and
- section 110(a)(2)(M): consultation/participation by affected local entities.

Two elements identified in section 110(a)(2) are not governed by the three-year submittal deadline of section 110(a)(1) and are therefore not addressed in this action. These two elements are: section 110(a)(2)(C) to the extent it refers to nonattainment new source review (NSR) permit

programs required under part D, and section 110(a)(2)(I), pertaining to the nonattainment planning requirements of part D. As a result, this action does not address SIP requirements for the nonattainment NSR portion of section 110(a)(2)(C) or of section 110(a)(2)(I).

In 2010, the EPA promulgated revised NAAQS for NO<sub>2</sub> and SO<sub>2</sub>, triggering a requirement for states to submit infrastructure SIP submissions. The NAAQS addressed by this infrastructure SIP rulemaking include the following:

- 2010 NO<sub>2</sub> NAAQS, which revised the primary 1971 NO<sub>2</sub> annual standard of 53 parts per billion (ppb) by supplementing it with a new 1-hour average NO<sub>2</sub> standard of 100 ppb, and retained the secondary annual standard of 53 ppb;<sup>1</sup> and
- 2010 SO<sub>2</sub> NAAQS, which established a new 1-hour average SO<sub>2</sub> standard of 75 ppb, retained the secondary 3-hour average SO<sub>2</sub> standard of 500 ppb, and established a mechanism for revoking the existing annual and 24-hour SO<sub>2</sub> standards.<sup>2</sup>

On May 16, 2016, the EPA proposed to partially approve and partially disapprove the Arizona infrastructure SIP submissions as meeting the requirements of sections 110(a)(1) and 110(a)(2) of the Act for the implementation, maintenance, and enforcement of the 2010 NO<sub>2</sub> and 2010 SO<sub>2</sub> standards. In addition, we proposed to reclassify the Pima Intrastate Air Quality Control Region (AQCR) for SO<sub>2</sub> emergency episode planning. We also proposed to approve into the Arizona SIP Arizona Revised Statutes (ARS) related to air quality modeling and the submission of modeling data to the EPA.<sup>3</sup> The rationale supporting the EPA's actions is explained in our proposal notice and the associated technical support document (TSD) and will

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<sup>1</sup> 75 FR 6474 (February 9, 2010). The annual NO<sub>2</sub> standard of 0.053 parts per million (ppm) is listed in ppb for ease of comparison with the new 1-hour standard.

<sup>2</sup> 75 FR 35520 (June 22, 2010). The annual SO<sub>2</sub> standard of 0.5 ppm is listed in ppb for ease of comparison with the new 1-hour standard.

<sup>3</sup> Partial Approval and Partial Disapproval of Air Quality State Implementation Plans; Arizona; Infrastructure Requirements for Nitrogen Dioxide and Sulfur Dioxide. 81 FR 31571 (May 19, 2016).

not be restated here. The proposed rule and TSD are available online at <http://www.regulations.gov>, Docket ID number EPA–R09–OAR–2015-0472.

## **II. Public Comments**

During the public comment period, the EPA received one brief and anonymous comment on the proposed action.

*Comment:* The commenter states that the “EPA cannot approve the PSD portions of the I-SIPs for both pollutants for [Arizona Department of Environmental Quality] and Pinal County until both programs have fully approved PM<sub>2.5</sub> increment provisions that do not contain illegal exemptions.”

*Response:* On May 4, 2018, we finalized approval of Arizona Department of Environmental Quality (ADEQ) rule revisions to correct deficiencies in ADEQ’s SIP-approved NSR program related to the requirements under part C (PSD) and part D (nonattainment NSR) of title I of the Act that apply to major stationary sources and major modifications of such sources. 83 FR 19631. Section A of ADEQ rule R18-2-218, approved into the SIP as part of our May 4, 2018 action, includes PSD increments for criteria pollutants, including NO<sub>2</sub>, SO<sub>2</sub>, and PM<sub>2.5</sub>. Our approval of the PSD increments for PM<sub>2.5</sub> into the Arizona SIP applied to both ADEQ and Pinal County. The May 4, 2018 final action thus resolved the issue identified by the commenter.

Nonetheless and as explained further below, we are finalizing a partial disapproval of a narrow portion of the PSD program elements of the I-SIP submissions for the 2010 NO<sub>2</sub> and 2010 SO<sub>2</sub> NAAQS for ADEQ and Pinal County. As explained in the TSD for the proposal notice, while ADEQ and Pinal County have SIP-approved PSD programs that cover most of the requirements of part C, title I of the Act, they do not have programs that provide for regulating the construction and modification of stationary sources of greenhouse gases (GHGs). Instead, all

of Arizona is subject to the federal PSD program at 40 CFR 52.21 for regulation of stationary sources of GHGs.<sup>4</sup> As explained in our TSD, the EPA's 2013 I-SIP guidance, and previous EPA rulemakings on Arizona I-SIP submissions, if a state does not have a fully approved PSD program that covers the requirements for all regulated NSR pollutants, including GHGs, then the EPA cannot fully approve an I-SIP submission with respect to the PSD-related requirements of 110(a)(2)(C), 110(a)(2)(D)(i)(II), 110(a)(2)(D)(ii), and 110(a)(2)(J).<sup>5</sup>

### **III. Final Action**

Under CAA section 110(k)(3), and based on the evaluation and rationale presented in the proposed rule, the related TSD, and this final rule, the EPA is approving in part and disapproving in part Arizona infrastructure SIP submissions addressing requirements of CAA section 110(a)(1) and (2), as applicable, with respect to the 2010 NO<sub>2</sub> and 2010 SO<sub>2</sub> NAAQS.

In this final action we are also making several administrative changes to clarify inconsistencies between our notice of proposed rulemaking and TSD. In the May 16, 2016 action we inadvertently listed several elements under the Proposed Approvals and Partial Approvals section of the notice. The portions of the infrastructure SIP submissions that the EPA listed under the Proposed Approvals and Partial Approvals section of the notice, but instead should have been listed under the Proposed Partial Disapprovals section of the notice, include: section 110(a)(2)(C) prevention of significant deterioration (ADEQ and Pinal County);<sup>6</sup> section

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<sup>4</sup> Technical Support Document, Evaluation of the Arizona Infrastructure SIP for 2010 SO<sub>2</sub> and NO<sub>2</sub> NAAQS, April 29, 2016 at 14.

<sup>5</sup> Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2), Memorandum from Stephen D. Page, September 13, 2013. *See also* Partial Approval and Disapproval of Air Quality Implementation Plans; Arizona; Infrastructure Requirements for Ozone and Fine Particulate Matter. 77 FR 66398 (November 5, 2012).

<sup>6</sup> CAA section 110(a)(2)(C) consists of three sub-elements: program for enforcement of control measures, major source PSD program, and regulation of minor sources and minor modifications. Only the PSD requirement as applicable to ADEQ and Pinal County is included in the administrative clarifications described in this final action. For additional information on section 110(a)(2)(C) requirements, please see the TSD for this action.

110(a)(2)(D)(i)(II) interference with prevention of significant deterioration, or prong 3 (ADEQ and Pinal County);<sup>7</sup> section 110(a)(2)(D)(ii) interstate pollution abatement (ADEQ and Pinal County); and section 110(a)(2)(J) prevention of significant deterioration (ADEQ and Pinal County).<sup>8</sup> As explained in the TSD, while ADEQ and Pinal County have SIP-approved PSD programs that cover most of the requirements of part C, title I of the Act, they do not have programs that provide for regulating the construction and modification of stationary sources of GHGs. Instead, all of Arizona is subject to the federal PSD program at 40 CFR 52.21 for regulation of stationary sources of GHGs.<sup>9</sup> As explained in the EPA’s 2013 I-SIP guidance, if a state does not have a fully approved PSD program that covers the requirements for all regulated NSR pollutants, including GHGs, then the EPA cannot fully approve the I-SIP submission for the requirements of 110(a)(2)(C), 110(a)(2)(D)(i)(II), 110(a)(2)(D)(ii), and 110(a)(2)(J).<sup>10</sup> Thus, consistent with the TSD for this action, past actions on Arizona I-SIP submissions, and our 2013 I-SIP guidance, this final action serves to clarify that the SIP submissions are partially approved and partially disapproved for the PSD-related infrastructure requirements of 110(a)(2)(C), 110(a)(2)(D)(i)(II), 110(a)(2)(D)(ii), and 110(a)(2)(J) with respect to ADEQ and Pinal County. The partial disapproval for ADEQ and Pinal County applies only with respect to the fact that these air programs do not have SIP approved rules to regulate sources of GHG emissions, and instead implement a federal implementation plan (FIP) for regulation of sources of GHGs pursuant to a delegation agreement with the EPA.

#### *A. Approvals*

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<sup>7</sup> In our notice of proposed rulemaking, we partially mislabeled prong 3 as “110(a)(2)(D)(i)(I) (in part) – interference with maintenance, or prong 3”. See 81 FR 31571, 31575, section IV.A (May 16, 2016).

<sup>8</sup> See 81 FR 31571, 31575.

<sup>9</sup> Technical Support Document, Evaluation of the Arizona Infrastructure SIP for 2010 SO<sub>2</sub> and NO<sub>2</sub> NAAQS, April 29, 2016 at 14.

<sup>10</sup> Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2), Memorandum from Stephen D. Page, September 13, 2013.

We are approving the 2010 NO<sub>2</sub> and 2010 SO<sub>2</sub> Arizona infrastructure SIP submission with respect to the following CAA requirements for the jurisdiction and pollutants listed in parentheses, as applicable:

- section 110(a)(2)(A) - emission limits and other control measures (for all jurisdictions and both pollutants);
- section 110(a)(2)(B) - ambient air quality monitoring/data system (for all jurisdictions and both pollutants);
- section 110(a)(2)(C) - program for enforcement of control measures and regulation of minor sources and minor modifications (for all jurisdictions and both pollutants)
- section 110(a)(2)(D) - interstate pollution transport;
  - section 110(a)(2)(D)(i)(I) - significant contribution to nonattainment and interference with maintenance (for the 2010 NO<sub>2</sub> NAAQS in all jurisdictions;
  - section 110(a)(2)(D)(ii) - international air pollution in section 115 (for all jurisdictions and both pollutants);
- section 110(a)(2)(E) - adequate resources and authority, conflict of interest, and oversight of local governments and regional agencies (for all jurisdictions and both pollutants);
- section 110(a)(2)(F) - stationary source monitoring and reporting (for all jurisdictions and both pollutants);
- section 110(a)(2)(G) - emergency episodes (for all jurisdictions and both pollutants);
- section 110(a)(2)(H) - SIP revisions (for all jurisdictions and both pollutants) ;



- section 110(a)(2)(J) - consultation with government officials in section 121 (for all jurisdictions and both pollutants) and public notification of exceedances in section 127 (for all jurisdictions and both pollutants);
- section 110(a)(2)(K) - air quality modeling and submission of modeling data (for all jurisdictions and both pollutants);
- section 110(a)(2)(L) - permitting fees (for all jurisdictions and both pollutants); and
- section 110(a)(2)(M) - consultation/participation by affected local entities (for all jurisdictions and both pollutants).

The EPA is taking no action at this time on section 110(a)(2)(D)(i)(I) - significant contribution to nonattainment and interference with maintenance - for the 2010 SO<sub>2</sub> NAAQS.

*B. Partial Approvals and Partial Disapprovals*

The EPA is partially approving and partially disapproving Arizona's 2010 NO<sub>2</sub> and 2010 SO<sub>2</sub> infrastructure SIP submissions with respect to the following infrastructure SIP requirements for the jurisdiction and pollutants listed in parentheses:

- section 110(a)(2)(C) - PSD permit program (for ADEQ and Pinal County and both pollutants);
- section 110(a)(2)(D) - interstate pollution transport (see below); and
  - section 110(a)(2)(D)(i)(II) – interference with measures required to prevent significant deterioration (for ADEQ and Pinal County and both pollutants);
  - section 110(a)(2)(D)(ii) - interstate pollution abatement in section 126 (for ADEQ and Pinal County and both pollutants);
- section 110(a)(2)(J) – PSD permit program (for ADEQ and Pinal County and both pollutants);

*C. Disapprovals*

The EPA is disapproving Arizona's 2010 NO<sub>2</sub> and 2010 SO<sub>2</sub> infrastructure SIP submissions with respect to the following infrastructure SIP requirements:

- section 110(a)(2)(C) - PSD permit program (for Maricopa County and Pima County and both pollutants);
- section 110(a)(2)(D) – interstate pollution transport (see below); and
  - section 110(a)(2)(D)(i)(II) – interference with measures required to prevent significant deterioration (for Maricopa County and Pima County and both pollutants);
  - section 110(a)(2)(D)(i)(II) – interference with measures required to protect visibility (for all jurisdictions and both pollutants);
  - section 110(a)(2)(D)(ii) - interstate pollution abatement in section 126 (for Maricopa County and Pima County and both pollutants);
- section 110(a)(2)(J) – PSD permit program (for Maricopa County and Pima County and both pollutants).

*D. Consequences of Disapprovals and Partial Disapprovals*

CAA section 110(c)(1) provides that the EPA must promulgate a FIP within two years after finding that a state has failed to make a required submission or disapproving a state's SIP submission in whole or in part, unless the EPA approves a SIP revision correcting the deficiencies within that two-year period. As explained below and in the TSD for this action, today's final disapproval and final partial approval and partial disapproval actions do not result in any new FIP obligations because FIPs are already in place for the deficient portions of Arizona's I-SIP submissions for the 2010 SO<sub>2</sub> and 2010 NO<sub>2</sub> NAAQS.

We are disapproving the Pima County and Maricopa County portions of Arizona's infrastructure SIP submissions, and partially approving and partially disapproving the ADEQ and Pinal County portions of Arizona's infrastructure SIP submissions, with respect to the PSD-related requirements of sections 110(a)(2)(C), 110(a)(2)(D)(i)(II), 110(a)(2)(D)(ii), and 110(a)(2)(J). The Arizona SIP does not fully satisfy the statutory and regulatory requirements for PSD permit programs under part C, title I of the Act, because Maricopa County and Pima County do not have SIP-approved PSD programs, while ADEQ and Pinal County do not have SIP-approved PSD programs that cover GHGs. Maricopa County and Pima County currently implement the federal PSD program in 40 CFR 52.21 for all regulated NSR pollutants, pursuant to delegation agreements with the EPA, while ADEQ and Pinal County implement 40 CFR 52.21 for GHGs pursuant to delegation agreements with the EPA. Accordingly, although the Arizona SIP remains deficient with respect to certain PSD requirements in the ADEQ, Pinal County, Maricopa County, and Pima County portions of the SIP, these deficiencies are adequately addressed in all areas by the federal PSD program in 40 CFR 52.21 and do not create new FIP obligations.

We are also disapproving all jurisdictions in Arizona for the visibility-related requirements of section 110(a)(2)(D)(i)(II). Because ADEQ, Pinal County, Maricopa County, and Pima County rely on an existing FIP to control sources under the Regional Haze Rule, and they have not demonstrated that emissions within their respective jurisdictions do not interfere with other states' programs to protect visibility, they do not meet the infrastructure SIP obligations for the visibility requirements of section 110(a)(2)(D)(i)(II) for the 2010 NO<sub>2</sub> and 2010 SO<sub>2</sub> NAAQS. Because a Regional Haze FIP is already in place, however, this disapproval creates no new FIP obligations.

*E. Approval of Arizona Revised Statutes into the Arizona SIP*

The EPA is approving ARS sections 49-104(A)(3) and (B)(1) into the Arizona SIP in order to meet the air quality modeling and data submission requirements of 110(a)(2)(K) for the 2010 NO<sub>2</sub> and 2010 SO<sub>2</sub> NAAQS, as well as for past and future NAAQS. Approval of ARS 49-104(A)(3) and (B)(1) into the SIP also corrects deficiencies identified in previous infrastructure SIP rulemakings.<sup>11</sup>

*F. Reclassification for Emergency Episode Planning*

Based on Arizona's 2013-2017 air quality data for Pima County, we are reclassifying this region from Priority II to Priority III for SO<sub>2</sub>.<sup>12</sup> The reclassification to Priority III relieves Pima County from having to address the emergency episode contingency plan requirement to meet the infrastructure SIP requirements of section 110(a)(2)(G) for the 2010 SO<sub>2</sub> NAAQS.<sup>13</sup>

Accordingly, and as noted above, the EPA is approving the infrastructure SIP submission for Pima County with respect to this requirement.

#### **IV. Statutory and Executive Order Reviews**

Additional information about these statutes and Executive Orders can be found at

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<sup>11</sup> On November 5, 2012, the EPA disapproved the CAA 110(a)(2)(K) I-SIP element with respect to ADEQ's submittals for the 1997 8-hour ozone and 1997 and 2006 PM<sub>2.5</sub> NAAQS (77 FR 66398). On July 14, 2015, the EPA again disapproved this I-SIP element for the 2008 lead and 2008 ozone NAAQS (80 FR 40906). The EPA disapproved those submissions because ADEQ, Pima, Pinal, and Maricopa Counties did not submit adequate provisions or narrative information related to the 110(a)(2)(K) requirements. The EPA's approval of ARS sections 49-104(A)(3) and (B)(1) into the Arizona SIP corrects previous disapprovals found at 77 FR 66398 and 80 FR 40906.

<sup>12</sup> The EPA's May 2016 proposal to reclassify the Pima Intrastate AQCR to Priority III for SO<sub>2</sub> was based on 2013-2015 data in the EPA's Air Quality System (AQS). The 2015-2017 data in AQS and preliminary 2018 data show Pima AQCR continues to meet the requirements for reclassification to Priority III for emergency episode planning. The boundaries of the Pima Intrastate AQCR are described in 40 CFR 81.269. The AQS data for 2013-2017 are available in the docket for today's rulemaking.

<sup>13</sup> Consistent with the provisions of 40 CFR 51.153, reclassification of an AQCR must rely on the most recent three years of air quality data. The classification system for emergency episode plans is described in 40 CFR 51.150. *See* 81 FR 18766 at 18770, further describing the EPA's authority for a reclassification of an AQCR. Regions classified Priority I, IA, or II are required to have SIP-approved emergency episode contingency plans, while those classified Priority III are not required to have emergency episode contingency plans.

<http://www2.epa.gov/laws-regulations/laws-and-executive-orders>.

*A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563:*

*Improving Regulation and Regulatory Review*

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

*B. Paperwork Reduction Act (PRA)*

This action does not impose an information collection burden under the PRA because this action does not impose additional requirements beyond those imposed by state law.

*C. Regulatory Flexibility Act (RFA)*

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities beyond those imposed by state law.

*D. Unfunded Mandates Reform Act (UMRA)*

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action does not impose additional requirements beyond those imposed by state law. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, will result from this action.

*E. Executive Order 13132: Federalism*

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

*F. Executive Order 13175: Coordination with Indian Tribal Governments*

This action does not have tribal implications, as specified in Executive Order 13175, because the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

*G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks*

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not impose additional requirements beyond those imposed by state law.

*H. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use*

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

*I. National Technology Transfer and Advancement Act (NTTAA)*

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA believes that this action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with the CAA.

*J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Population*

The EPA lacks the discretionary authority to address environmental justice in this

rulemaking.

*K. Congressional Review Act (CRA)*

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

*L. Petitions for Judicial Review*

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Reporting and recordkeeping requirements, and Sulfur dioxide.

Dated: July 31, 2018.

Michael Stoker,  
Regional Administrator,  
Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

## **PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

### **Subpart D—Arizona**

2. Section 52.120 paragraph (e) is amended by:

a. In Table 1, adding three entries after the entry “Arizona State Implementation Plan Revision under Clean Air Act Section 110(a)(1) and (2); 2008 8-hour Ozone NAAQS, excluding the appendices”; and

b. In Table 3 by adding an entry for “49-104, subsections (A)(3) and (B)(1) only” after the entry for “49-104, subsections (A)(2), (A)(4), (B)(3), and (B)(5) only”.

The additions read as follows:

#### **§ 52.120 Identification of plan.**

\* \* \* \* \*

(e) \* \* \*

**TABLE 1—EPA-APPROVED NON-REGULATORY AND QUASI-REGULATORY MEASURES**

[Excluding certain resolutions and statutes, which are listed in tables 2 and 3, respectively]<sup>1</sup>

<b>Name of SIP provision</b>	<b>Applicable geographic or nonattainment area or title/subject</b>	<b>State submittal date</b>	<b>EPA approval date</b>	<b>Explanation</b>
<b>The State of Arizona Air Pollution Control Implementation Plan</b>				
<b>Clean Air Act Section 110(a)(2) State Implementation Elements (Excluding Part D Elements and Plans</b>				
*****				
Arizona State	State-wide	January 18,	<b>[INSERT DATE]</b>	Adopted by the



Implementation Plan Revision under Clean Air Act Section 110(a)(1) and (2); Implementation of the 2010 NO <sub>2</sub> National Ambient Air Quality Standards, excluding the appendices		2013	<b>OF PUBLICATION], [INSERT FEDERAL REGISTER CITATION]</b>	Arizona Department of Environmental Quality on January 18, 2013.
Arizona State Implementation Plan Revision under Clean Air Act Section 110(a)(1) and (2); Implementation of the 2010 SO <sub>2</sub> National Ambient Air Quality Standards, excluding the appendices	State-wide	July 23, 2013	<b>[INSERT DATE OF PUBLICATION], [INSERT FEDERAL REGISTER CITATION]</b>	Adopted by the Arizona Department of Environmental Quality on July 23, 2013.
Arizona State Implementation Plan Revision under Clean Air Act Section 110(a)(1) and (2); Implementation of the 2008 ozone and 2010 NO <sub>2</sub> National Ambient Air Quality Standards, excluding:	State-wide	December 3, 2015	<b>[INSERT DATE OF PUBLICATION], [INSERT FEDERAL REGISTER CITATION]</b>	Adopted by the Arizona Department of Environmental Quality on December 3, 2015.
(i) The submission in				

Enclosure 1 titled “SIP Revision: Clean Air Act Section 110(a)(2)(D) 2008 Ozone National Ambient Air Quality Standards Air Quality Division” dated December 3, 2015;				
(ii) All appendices in Enclosure 1; and Enclosure 2.				
*****				

<sup>1</sup>Table 1 is divided into three parts: Clean Air Act Section 110(a)(2) State Implementation Plan Elements (excluding Part D Elements and Plans), Part D Elements and Plans (other than for the Metropolitan Phoenix or Tucson Areas), and Part D Elements and Plans for the Metropolitan Phoenix and Tucson Areas.

\* \* \* \* \*

**TABLE 3—EPA-APPROVED ARIZONA STATUTES—NON-REGULATORY**

State citation	Title/subject	State submittal date	EPA approval date	Explanation
<b>ARIZONA REVISED STATUTES</b>				
*****				
<b>Title 49 (The Environment)</b>				
<b>Chapter 1 (General Provisions)</b>				
<b>Article 1 (Department of Environmental Quality)</b>				
*****				
49-104 subsections (A)(3) and (B)(1) only	Powers and duties of the department and director	December 3, 2015.	<b>[INSERT DATE OF PUBLICATION], [INSERT FEDERAL REGISTER CITATION]</b>	Arizona Revised Statutes (Thomson Reuters, 2015-16 Cumulative Pocket Part). Adopted by the Arizona Department of Environmental Quality on

				December 3, 2015.
*****				

3. Section 52.121 is revised to read as follows:

**§ 52.121 Classification of regions.**

The Arizona plan is evaluated on the basis of the following classifications:

AQCR (constituent counties)	Classifications				
	PM	SO <sub>x</sub>	NO <sub>2</sub>	CO	O <sub>3</sub>
Maricopa Intrastate (Maricopa)	I	III	III	I	I
Pima Intrastate (Pima)	I	III	III	III	I
Northern Arizona Intrastate (Apache, Coconino, Navajo, Yavapai)	I	III	III	III	III
Mohave-Yuma Intrastate (Mohave, Yuma)	I	III	III	III	III
Central Arizona Intrastate (Gila, Pinal)	I	IA	III	III	III
Southeast Arizona Intrastate (Cochise, Graham, Greenlee, Santa Cruz)	I	IA	III	III	III

4. Section 52.123 is amended by revising paragraphs (l) through (p), and adding paragraphs (q) and (r) to read as follows:

**§ 52.123 Approval status.**

\* \* \* \* \*

(l) *1997 8-hour ozone NAAQS*: The SIPs submitted on October 14, 2009 and August 24, 2012 are fully or partially disapproved for Clean Air Act (CAA) elements 110(a)(2)(C), (D)(ii), and (J) for all portions of the Arizona SIP.

(m) *1997 PM<sub>2.5</sub> NAAQS*: The SIPs submitted on October 14, 2009 and August 24, 2012 are fully or partially disapproved for Clean Air Act (CAA) elements 110(a)(2)(C), (D)(ii), (J) and (K) for all portions of the Arizona SIP.

(n) *2006 PM<sub>2.5</sub> NAAQS*: The SIPs submitted on October 14, 2009 and August 24, 2012 are fully or partially disapproved for Clean Air Act (CAA) elements 110(a)(2)(C), (D)(i)(II), (D)(ii), and (J) for all portions of the Arizona SIP.

(o) *2008 8-hour ozone NAAQS*: The SIPs submitted on October 14, 2011, December 27, 2012, and December 3, 2015 are fully or partially disapproved for Clean Air Act (CAA) elements 110(a)(2)(C), (D)(i)(II), D(ii), and (J) for all portions of the Arizona SIP.

(p) *2008 Lead (Pb) NAAQS*: The SIPs submitted on October 14, 2011 and December 27, 2012 are fully or partially disapproved for Clean Air Act (CAA) elements 110(a)(2)(C), (D)(ii), and (J) for all portions of the Arizona SIP.

(q) *2010 Nitrogen Dioxide NAAQS*: The SIPs submitted on January 18, 2013 and December 3, 2015 are fully or partially disapproved for CAA elements 110(a)(2)(C), (D)(i)(II), (D)(ii), and (J) for all portions of the Arizona SIP.

(r) *2010 Sulfur Dioxide NAAQS*: The SIPs submitted on July 23, 2013 and December 3, 2015 are fully or partially disapproved for CAA elements 110(a)(2)(C), (D)(i)(II), (D)(ii), and (J) for all portions of the Arizona SIP.

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